

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MALIBU MEDIA, LLC,

Plaintiff,

vs.

JOHN DOE subscriber assigned IP address
74.72.82.171,

Defendant.
-----X

Civil Action No. _____

**COMPLAINT – ACTION FOR
DAMAGES FOR PROPERTY
RIGHTS INFRINGEMENT**

JUDGE ENGELMAYER

15 CV 2615

Plaintiff, Malibu Media, LLC, sues Defendant John Doe subscriber assigned IP address
74.72.82.171, and alleges:

Introduction

1. This matter arises under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the “Copyright Act”).

2. Defendant is a persistent online infringer of Plaintiff’s copyrights who copied and distributed a large file containing 127 separate movies owned by Plaintiff. This file is known as a “siterip,” and it contains a significant percentage of movies available on Plaintiff’s website.

3. Indeed, Defendant’s IP address as set forth on Exhibit A was used to illegally distribute each of the copyrighted movies set forth on Exhibit B.

4. Plaintiff is the registered owner of the copyrights set forth on Exhibit B (the “Copyrights-in-Suit”).

Jurisdiction And Venue

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair competition).

6. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that the Defendant's acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District, and therefore this Court has personal jurisdiction over the Defendant because (i) Defendant committed the tortious conduct alleged in this Complaint in this State, and (ii) Defendant resides in this State and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

7. Based upon experience filing over 1,000 cases the geolocation technology used by Plaintiff has proven to be accurate to the District level in over 99% of the cases.

8. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because Defendant or Defendant's agent resides or may be found in this District.

Parties

9. Plaintiff, Malibu Media, LLC, (d/b/a "X-Art.com") is a limited liability company organized and existing under the laws of the State of California and has its principal place of business located at 409 W. Olympic Blvd., Suite 501, Los Angeles, CA, 90015.

10. Plaintiff only knows Defendant by his, her or its IP Address. Defendant's IP address is set forth on Exhibit A.

11. Defendant's Internet Service Provider can identify the Defendant.

Factual Background

I. Defendant Used the BitTorrent File Distribution Network To Infringe Plaintiff's Copyrights

12. The BitTorrent file distribution network ("BitTorrent") is one of the most common peer-to-peer file sharing systems used for distributing large amounts of data, including, but not limited to, digital movie files.

13. BitTorrent's popularity stems from the ability of users to directly interact with each other in order to distribute a large file without creating a heavy load on any individual source computer and/or network. The methodology of BitTorrent allows users to interact directly with each other, thus avoiding the need for intermediary host websites which are subject to DMCA take down notices and potential regulatory enforcement actions.

14. In order to distribute a large file, the BitTorrent protocol breaks a file into many small pieces called bits. Users then exchange these small bits among each other instead of attempting to distribute a much larger digital file.

15. After the infringer receives all of the bits of a digital media file, the infringer's BitTorrent client software reassembles the bits so that the file may be opened and utilized.

16. Each bit of a BitTorrent file is assigned a unique cryptographic hash value.

17. The cryptographic hash value of the bit ("bit hash") acts as that bit's unique digital fingerprint. Every digital file has one single possible cryptographic hash value correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each bit is properly

routed amongst BitTorrent users as they engage in file sharing.

18. The entirety of the digital media file also has a unique cryptographic hash value (“file hash”), which acts as a digital fingerprint identifying the digital media file (which contains a video or series of videos). Once infringers complete downloading all bits which comprise a digital media file, the BitTorrent software uses the file hash to determine that the file is complete and accurate.

19. Plaintiff’s investigator, IPP International UG, established a direct TCP/IP connection with the Defendant’s IP address as set forth on Exhibit A.

20. IPP International UG downloaded from Defendant one or more bits of each of the digital media files identified by the file hashes on Exhibit A.

21. Defendant downloaded, copied, and distributed a complete copy of Plaintiff’s works without authorization as enumerated on Exhibit A and B.

22. Each of the cryptographic file hashes as set forth on Exhibit A correlates to a digital media file containing a copyrighted movie or several copyrighted movies owned by Plaintiff as identified on Exhibit B.

23. The file hash listed on Exhibit A as “Xart Unauthorized Pack #89” is a digital media file containing a zip folder with 127 of Malibu Media’s audiovisual works, each of which is identical (or alternatively, strikingly similar or substantially) to the original 127 works listed on Exhibit B.

24. IPP International UG downloaded from Defendant one or more bits of each file hash listed on Exhibit A. IPP International UG further downloaded a full copy of each file hash from the BitTorrent file distribution network and confirmed through independent calculation that the file hash matched what is listed on Exhibit A. IPP International UG then verified that each

digital media file, as identified by its file hash value set forth on Exhibit A, contained a digital copy of a movie that is identical (or alternatively, strikingly similar or substantially similar) to the original copyrighted work listed on Exhibit B. At no time did IPP International UG upload Plaintiff's copyrighted content to any other BitTorrent user.

25. IPP International UG connected, over a course of time, with Defendant's IP address for each hash value as listed on Exhibit A. The most recent TCP/IP connection between IPP and the Defendant's IP address for each file hash value listed on Exhibit A is included within the column labeled Hit Date UTC. UTC refers to Universal Time which is utilized for air traffic control as well as for computer forensic purposes.

26. An overview of the Copyrights-in-Suit, including each hit date, date of first publication, registration date, and registration number issued by the United States Copyright Office is set forth on Exhibit B.

27. Plaintiff's evidence establishes that Defendant is a habitual and persistent BitTorrent user and copyright infringer.

Miscellaneous

28. All conditions precedent to bringing this action have occurred or been waived.

29. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

COUNT I **Direct Infringement Against Defendant**

30. The allegations contained in paragraphs 1-29 are hereby re-alleged as if fully set forth herein.

31. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit B, each of which covers an original work of authorship.

32. By using BitTorrent, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.

33. Plaintiff did not authorize, permit or consent to Defendant's distribution of its works.

34. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

(A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;

(B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the works audible and transmitting said performance of the works, by means of a device or process, to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and

(D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works nonsequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).

35. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;

(B) Order that Defendant delete and permanently remove the digital media files

relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;

(C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;

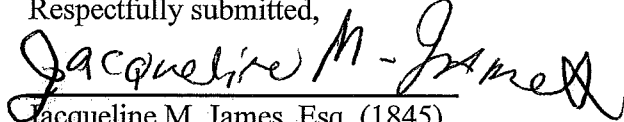
(D) Award Plaintiff statutory damages per infringed work pursuant to 17 U.S.C. § 504 (a) and (c);

(E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and

(F) Grant Plaintiff any other and further relief this Court deems just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,
By: 
Jacqueline M. James, Esq. (1845)
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Attorneys for Plaintiff

File Hashes for IP Address 74.72.82.171

ISP: Time Warner Cable

Physical Location: New York, NY

Hit Date UTC	File Hash	Title
02/25/2015 13:35:49	4CBE8879EDEEC66D681CC570CD3434B1CE7788AA	X-art Unauthorized Pack #89
12/08/2014 13:31:52	85A482797063FE9326206DB259006B81EEEB7116	Je Mappelle Belle

Total Statutory Claims Against Defendant: 128

EXHIBIT A

SNY153

Copyrights-In-Suit for IP Address 74.72.82.171

ISP: Time Warner Cable

Location: New York, NY

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
A Dream Of You	PA0001909516	08/15/2014	08/26/2014	02/25/2015
A Little Time For Myself	PA0001877474	01/28/2014	01/31/2014	02/25/2015
A Perfect Match	PA0001862419	09/11/2013	09/12/2013	02/25/2015
A Thought Of You	PA0001907104	07/13/2014	07/25/2014	02/25/2015
Afterthoughts	PA0001909479	08/10/2014	08/19/2014	02/25/2015
All About Anna	PA0001886195	03/25/2014	04/02/2014	02/25/2015
All Oiled Up	PA0001885187	03/15/2014	03/24/2014	02/25/2015
Almost Famous	PA0001864687	09/27/2013	09/30/2013	02/25/2015
And Then There Was You	PA0001874615	12/31/2013	01/05/2014	02/25/2015
Angelica means Angel	PA0001909782	08/20/2014	08/26/2014	02/25/2015
Any And All For You	PA0001908677	08/02/2014	08/11/2014	02/25/2015
Apertif Our Style	PA0001874522	12/23/2013	12/30/2013	02/25/2015
Baby Blues	PA0001867887	10/30/2013	11/03/2013	02/25/2015
Barely Fits	PA0001928412	01/03/2015	01/19/2015	02/25/2015
Beautiful Girl	PA0001909784	08/25/2014	08/26/2014	02/25/2015
Bedtime Hijinks	PA0001912776	09/01/2014	09/17/2014	02/25/2015
Black and White	PA0001831226	02/22/2013	03/07/2013	02/25/2015
Blindfold Me Part #2	PA0001867890	11/03/2013	11/06/2013	02/25/2015
Blonde Perfection	PA0001926061	12/10/2014	12/29/2014	02/25/2015
Body Language	PA0001868096	10/26/2013	11/01/2013	02/25/2015
Bohemian Rhapsody	PA0001867584	10/23/2013	10/25/2013	02/25/2015

EXHIBIT B

SNY153

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Brazilian Love Affair	PA0001895095	05/03/2014	05/12/2014	02/25/2015
Breakfast At Eves	PA0001909480	08/06/2014	08/26/2014	02/25/2015
Call Me Fox	PA0001921291	10/22/2014	11/06/2014	02/25/2015
Cat Fight	PA0001916043	09/26/2014	10/06/2014	02/25/2015
Chloe Loves Carl Part 2	PA0001906561	07/05/2014	07/14/2014	02/25/2015
Come Close	PA0001905140	06/23/2014	06/30/2014	02/25/2015
Come Inside From the Cold	PA0001862484	09/12/2013	09/18/2013	02/25/2015
Creamy	PA0001874617	01/02/2014	01/05/2014	02/25/2015
Cum In Get Wet	PA0001923948	11/26/2014	12/08/2014	02/25/2015
Cut Once More Please	PA0001905491	07/01/2014	07/02/2014	02/25/2015
Deep Blue Passion	PA0001885168	03/21/2014	03/24/2014	02/25/2015
Deep Down In Me	PA0001922955	11/13/2014	11/18/2014	02/25/2015
Do Me Darling	PA0001921297	10/24/2014	11/06/2014	02/25/2015
Double Daydreams	PA0001869246	11/13/2013	11/21/2013	02/25/2015
Dripping Desires	PA0001918737	10/17/2014	10/22/2014	02/25/2015
Early Morning Orgasm	PA0001914536	09/07/2014	09/16/2014	02/25/2015
East Meets West	PA0001926088	12/23/2014	12/29/2014	02/25/2015
Elevated Erotica	PA0001909513	08/17/2014	08/26/2014	02/25/2015
Enjoy the Ride	PA0001926086	12/18/2014	12/29/2014	02/25/2015
Epic Love	PA0001898091	05/25/2014	06/06/2014	02/25/2015
Fantasy Come True	PA0001874629	12/19/2013	12/26/2013	02/25/2015
Fashion Fantasy	PA0001885185	03/13/2014	03/24/2014	02/25/2015
Fashion Models	PA0001838599	04/19/2013	04/28/2013	02/25/2015
Feeling Frisky	PA0001880671	02/22/2014	02/27/2014	02/25/2015
First Time	PA0001926092	12/13/2014	12/29/2014	02/25/2015

EXHIBIT B

SNY153

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
For Your Eyes Only	PA0001909485	08/11/2014	08/19/2014	02/25/2015
Forever You Part #1	PA0001923965	11/23/2014	12/08/2014	02/25/2015
Forever You Part #2	PA0001923966	11/30/2014	12/08/2014	02/25/2015
From Three to Four Part 2	PA0001902970	06/01/2014	06/06/2014	02/25/2015
Fuck Me More	PA0001923957	11/22/2014	12/08/2014	02/25/2015
Fucking Ballerinas	PA0001928404	01/17/2015	01/19/2015	02/25/2015
Get Wild at Home	PA0001877470	01/22/2014	01/31/2014	02/25/2015
Give Me More	PA0001904311	06/17/2014	06/24/2014	02/25/2015
Go Down On Me	PA0001904131	06/11/2014	06/19/2014	02/25/2015
Grow Up With Me	PA0001866185	10/17/2013	10/19/2013	02/25/2015
Happy Birthday Capri	PA0001846087	05/24/2013	06/17/2013	02/25/2015
High School Dropouts	PA0001871934	11/21/2013	11/29/2013	02/25/2015
Highrise Rendezvous	PA0001908213	07/25/2014	07/31/2014	02/25/2015
Hot Brunettes	PA0001865957	10/03/2013	10/06/2013	02/25/2015
I Want to Tell You	PA0001872082	11/27/2013	12/04/2013	02/25/2015
I Want You To Want Me	PA0001925335	12/06/2014	12/10/2014	02/25/2015
I Will See You In The Morning	PA0001874746	01/14/2014	01/15/2014	02/25/2015
In Charge	PA0001865956	10/04/2013	10/06/2013	02/25/2015
In Love with a Girl	PA0001866052	10/11/2013	10/16/2013	02/25/2015
In the blind	PA0001909487	08/08/2014	08/20/2014	02/25/2015
In The Dark	PA0001908451	07/31/2014	08/04/2014	02/25/2015
It Is a Fine Line	PA0001880437	02/15/2014	02/21/2014	02/25/2015
Just Watch	PA0001898092	05/22/2014	06/06/2014	02/25/2015
Just Watch Part 2	PA0001902964	05/27/2014	06/06/2014	02/25/2015
Knock On My Door	PA0001895763	05/09/2014	05/16/2014	02/25/2015

EXHIBIT B

SNY153

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Let Me Take Your Picture	PA0001862486	09/14/2013	09/18/2013	02/25/2015
Light My Fire	PA0001923961	11/28/2014	12/08/2014	02/25/2015
Listen To Me Cum	PA0001908211	07/19/2014	07/31/2014	02/25/2015
Lonesome Without You	PA0001887108	04/03/2014	04/07/2014	02/25/2015
Lost In My Own Moment	PA0001877253	01/20/2014	01/26/2014	02/25/2015
Lovers at Home	PA0001868816	11/05/2013	11/10/2013	02/25/2015
Lovers in Paradise	PA0001780463	12/30/2011	03/10/2012	02/25/2015
Meet My Lover From Austria	PA0001898094	05/17/2014	06/06/2014	02/25/2015
Mile High Club	PA0001877249	01/16/2014	01/26/2014	02/25/2015
Move with Me	PA0001878980	02/11/2014	02/13/2014	02/25/2015
My Naughty Girl	PA0001868094	10/28/2013	11/01/2013	02/25/2015
Nice and Slow	PA0001916038	09/28/2014	10/06/2014	02/25/2015
No Turning Back Part #1	PA0001874524	12/21/2013	12/30/2013	02/25/2015
One Show For Each	PA0001921295	10/26/2014	11/06/2014	02/25/2015
Only The Lonely	PA0001906563	07/07/2014	07/15/2014	02/25/2015
Paint Me Beautiful	PA0001908674	08/04/2014	08/11/2014	02/25/2015
Paint Me White	PA0001909785	08/24/2014	08/26/2014	02/25/2015
Play Me	PA0001847659	06/14/2013	06/30/2013	02/25/2015
Playing Dress Up	PA0001874742	01/12/2014	01/15/2014	02/25/2015
Precious Metal	PA0001908248	07/27/2014	07/31/2014	02/25/2015
Pretty Bad Girl	PA0001909504	08/14/2014	08/26/2014	02/25/2015
Pretty Little Belle	PA0001878425	02/09/2014	02/13/2014	02/25/2015
Queen of Hearts	PA0001914720	09/17/2014	09/22/2014	02/25/2015
Raw Passion	PA0001860979	08/18/2013	09/02/2013	02/25/2015
Risky Business	PA0001878455	02/01/2014	02/18/2014	02/25/2015

EXHIBIT B

SNY153

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Rope Priority	PA0001895760	05/11/2014	05/16/2014	02/25/2015
Santas Little Helper	PA0001874520	12/23/2013	12/30/2013	02/25/2015
Saturday Eve	PA0001909511	08/18/2014	08/26/2014	02/25/2015
Secret Weapon	PA0001846098	05/12/2013	06/11/2013	02/25/2015
Serving Seduction	PA0001916704	10/08/2014	10/09/2014	02/25/2015
Sexy and Wild	PA0001914530	09/15/2014	09/16/2014	02/25/2015
Smarty Pants	PA0001912774	08/28/2014	09/17/2014	02/25/2015
So Right Its Wrong	PA0001872084	12/01/2013	12/04/2013	02/25/2015
Spanish Heat	PA0001917709	10/13/2014	10/19/2014	02/25/2015
Spellbound	PA0001922954	11/15/2014	11/18/2014	02/25/2015
Strawberry Morning	PA0001926089	12/27/2014	12/29/2014	02/25/2015
Submissive Seduction	PA0001878420	02/07/2014	02/13/2014	02/25/2015
Sunset Memories	PA0001921296	10/31/2014	11/06/2014	02/25/2015
Sweet Dreamers	PA0001883771	03/09/2014	03/24/2014	02/25/2015
Tantric Massage	PA0001892180	04/25/2014	04/29/2014	02/25/2015
Taste Me	PA0001912773	08/27/2014	09/17/2014	02/25/2015
Tease Me Please Me	PA0001926095	12/20/2014	12/29/2014	02/25/2015
The Journey	PA0001865603	10/07/2013	10/09/2013	02/25/2015
The Young and the Restless	PA0001843111	05/05/2013	05/15/2013	02/25/2015
They Meet Again	PA0001866049	10/11/2013	10/16/2013	02/25/2015
They Only Look Innocent	PA0001877471	01/24/2014	01/31/2014	02/25/2015
They Seem so Sweet	PA0001904151	06/15/2014	06/19/2014	02/25/2015
This Really Happened	PA0001860970	08/03/2013	09/01/2013	02/25/2015
Tiffanys Tight Ass	PA0001912772	08/30/2014	09/17/2014	02/25/2015
Tight and Wet	PA0001923176	11/19/2014	11/23/2014	02/25/2015

EXHIBIT B

SNY153

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Two By Two	PA0001898093	05/23/2014	06/06/2014	02/25/2015
Undress Me	PA0001869238	11/15/2013	11/21/2013	02/25/2015
Unveiling Part #2	PA0001866188	10/15/2013	10/19/2013	02/25/2015
Wake Me Up	PA0001887105	04/01/2014	04/07/2014	02/25/2015
Yours Forever	PA0001907573	07/15/2014	07/25/2014	02/25/2015
Je Mappelle Belle	PA0001921294	10/29/2014	11/06/2014	12/08/2014
Tie Her Up For Me	PA0001906551	07/03/2014	07/14/2014	09/24/2014

Total Malibu Media, LLC Copyrights Infringed: 128